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EXAMINER	
PASS, NATALIE	
ART UNIT	PAPER NUMBER
3626	

DATE MAILED: 12/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/749,051

Applicant(s)

KUROYANAGI, TADASHI

Examiner

Natalie A. Pass

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the application filed 27 December 2000. Claims 1-10 are pending.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requires of this title.

3. Claim 1 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

In the present case, claim 1 only recites abstract ideas. The recited claim detailing an information medium associated with a food and drink does not apply, involve, use, or advance the technological arts since the medium can consist solely of a piece of paper.

Furthermore, should the information medium of claim 1 be amended to be tangibly embodied on a computer, as regards the further recitation in claim 1 of "wherein information showing an ingested energy of each food and drink is patterned in a predetermined format and recorded," merely claiming nonfunctional descriptive material stored in a computer-readable medium does not make the invention eligible for patenting. Thus the "information medium" recited in claim 1 would not demonstrate any functional interrelationship, and would not impart functionality to the computer, rendering it an example of non-functional descriptive material *per se*; furthermore, the remainder of the claim limitations of claim 1 fail to apply, involve, use, or advance the technological arts.

Additionally, for a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result. In the present case, the claimed invention produces information showing an ingested energy of each food and drink (i.e., repeatable) that can be used in evaluating caloric consumption (i.e., useful and tangible).

Although the recited process produces a useful, concrete, and tangible result, since the claimed invention, as a whole, is not within the technological arts as explained above, claim 1 is deemed to be directed to non-statutory subject matter.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Ecer, U.S. Patent Number 5, 412, 564.

(A) As per claim 1, Ecer teaches an information medium associated with a food and drink, including the information medium such as a package or the like of a meal menu and the food and drink, wherein information showing an ingested energy of each food and drink is patterned in a predetermined format and recorded (Ecer; Abstract, Figure 4, column 2, line 27 to column 3, line 38, column 4, line 49 to column 5, line 3, column 5, line 30 to column 7, line 27).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2-4, 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ecer, U.S. Patent Number 5, 412, 564 in view of Diaz, et al., U.S. Patent Number 5, 890, 128.

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(A) As per claim 2, Ecer teaches a health control terminal, comprising:

reading means for reading a record, which is patterned in a predetermined format as information showing an ingested energy of a food and drink in an information medium associated with the food and drink (Ecer; Abstract, Figure 4, Figure 5, column 2, line 27 to column 3, line 38, column 4, line 49 to column 5, line 3, column 5, line 30 to column 7, line 27);

decoding means for decoding the ingested energy of said food and drink from said read information of the reading means (Ecer; Abstract, Figure 4, Figure 5, column 2, line 27 to column 3, line 38, column 4, line 49 to column 5, line 3, column 5, line 30 to column 7, line 27);

transmitting means for transmitting a signal for transferring the energy information, which is decoded by said decoding means, to a predetermined device (Ecer; Abstract, Figure 4, Figure 5, column 2, line 27 to column 3, line 38, column 4, line 49 to column 5, line 3, column 5, line 30 to column 7, line 27);

receiving means for receiving a signal to be returned with respect to the signal, which is transmitted by said transmitting means, as health control information of a person associated with the ingested energy of said food and drink (Ecer; Abstract, Figure 4, Figure 5, column 2, line 27 to column 3, line 38, column 4, line 49 to column 5, line 3, column 5, line 30 to column 7, line 27); and

informing means for informing the health control information, which is received by said receiving means (Ecer; Abstract, Figure 4, Figure 5, column 2, line 27 to column 3, line 38, column 4, line 49 to column 5, line 3, column 5, line 30 to column 7, line 27).

Although Ecer teaches a health control terminal, and transmitting health control information, Ecer fails to explicitly disclose a health control terminal, which is formed so as to

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be portable, and transmitting health control information of a person who brings the health control terminal with oneself and a radio signal.

However, the above features are well-known in the art, as evidenced by Diaz.

In particular, Diaz teaches a health control terminal, which is formed so as to be portable, and transmitting health control information of a person who brings the health control terminal with oneself and wireless transmission of a signal (reads on a radio signal) (Diaz; Abstract, column 5, line 51 to column 7, line 50, column 13, lines 19-46, column 24, lines 17-25, column 26, line 34 to column 27, line 19).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the health control terminal of Ecer to include a health control terminal, which is formed so as to be portable, and transmitting health control information of a person who brings the health control terminal with oneself and wireless transmission of a signal (reads on a radio signal), as taught by Diaz, with the motivations of providing a confidential, convenient, interactive, easy to use, hand held device which provides a user with truly real time comprehensive caloric/fat targets and historical data directly tied to the individual's physical characteristics, metabolism, way of life, physical activities, and eating habits and of allowing real time updating of stored data of calories and fat content of exact portions of foods as they are consumed, which allows the user to make conscious well informed health changes related to physical activities and dietary routine as often as desired to increase, decrease or maintain body weight (Diaz, column 4, lines 14-18, column 5, lines 40-49).

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(B) As per claim 3, Ecer and Diaz teach a health control terminal, which is formed so as to be portable, comprising:

reading means for reading a record, which is patterned in a predetermined format as searching information for searching an ingested energy of a food and drink in an information medium associated with the food and drink (Ecer; Abstract, Figure 4, Figure 5, column 2, line 27 to column 3, line 38, column 4, line 49 to column 5, line 3, column 5, line 30 to column 7, line 27);

decoding means for decoding said searching information from the read information of the reading means (Ecer; Abstract, Figure 4, Figure 5, column 2, line 27 to column 3, line 38, column 4, line 49 to column 5, line 3, column 5, line 30 to column 7, line 27);

transmitting means for wireless transmission of a signal (reads on a radio signal) for transferring said searching information, which is decoded by the decoding means, to a predetermined device (Ecer; Abstract, Figure 4, Figure 5, column 2, line 27 to column 3, line 38, column 4, line 49 to column 5, line 3, column 5, line 30 to column 7, line 27), (Diaz; Abstract, column 5, line 51 to column 7, line 50, column 13, lines 19-46, column 24, lines 17-25, column 26, line 34 to column 27, line 19);

receiving means for wireless receiving of a signal (reads on a radio signal) to be returned with respect to the wireless signal (reads on radio signal), which is transmitted by said transmitting means, as health control information of a person who brings the health control terminal with oneself associated with the ingested energy of the food and drink, which is searched by said searching information (Ecer; Abstract, Figure 4, Figure 5, column 2, line 27 to column 3, line 38, column 4, line 49 to column 5, line 3, column 5, line 30 to column 7, line 27),

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(Diaz; Abstract, column 5, line 51 to column 7, line 50, column 13, lines 19-46, column 24, lines 17-25, column 26, line 34 to column 27, line 19); and

informing means for informing the received health control information, which is received by said receiving means (Ecer; Abstract, Figure 4, Figure 5, column 2, line 27 to column 3, line 38, column 4, line 49 to column 5, line 3, column 5, line 30 to column 7, line 27).

The motivations for combining the respective teachings of Ecer and Diaz are as given in the rejection of claim 2 above, and incorporated herein.

(C) As per claim 4, Ecer and Diaz teach a health control terminal, which is formed so as to be portable, comprising:

physical exercise quantity measuring means for measuring the physical exercise quantity of a person who brings the health control terminal with oneself (Diaz; Abstract, column 5, line 51 to column 7, line 50, column 13, lines 19-46, column 24, lines 17-25, column 26, line 34 to column 27, line 19);

reading means for reading a record, which is patterned in a predetermined format as searching information for searching an ingested energy of a food and drink in an information medium associated with the food and drink (Ecer; Abstract, Figure 4, Figure 5, column 2, line 27 to column 3, line 38, column 4, line 49 to column 5, line 3, column 5, line 30 to column 7, line 27);

decoding means for decoding said searching information from said read information of the reading means (Ecer; Abstract, Figure 4, Figure 5, column 2, line 27 to column 3, line 38, column 4, line 49 to column 5, line 3, column 5, line 30 to column 7, line 27);

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transmitting means for wireless transmission of a signal (reads on a radio signal) for transferring the physical exercise quantity, which is measured by said physical exercise quantity measuring means or the searching information, which is decoded by said decoding means, to a predetermined device (Ecer; Abstract, Figure 4, Figure 5, column 2, line 27 to column 3, line 38, column 4, line 49 to column 5, line 3, column 5, line 30 to column 7, line 27), (Diaz; Abstract, column 5, line 51 to column 7, line 50, column 13, lines 19-46, column 24, lines 17-25, column 26, line 34 to column 27, line 19);

receiving means for wireless receiving of a signal (reads on a radio signal) to be returned with respect to the wireless signal (reads on radio signal), which is transmitted by said transmitting means in order to transfer the searching information to a predetermined device, as health control information of a person who brings the health control terminal with oneself associated with the ingested energy of the food and drink, which is searched by said searching information (Ecer; Abstract, Figure 4, Figure 5, column 2, line 27 to column 3, line 38, column 4, line 49 to column 5, line 3, column 5, line 30 to column 7, line 27), (Diaz; Abstract, column 5, line 51 to column 7, line 50, column 13, lines 19-46, column 24, lines 17-25, column 26, line 34 to column 27, line 19); and

informing means for informing the received health control information, which is received by said receiving means (Ecer; Abstract, Figure 4, Figure 5, column 2, line 27 to column 3, line 38, column 4, line 49 to column 5, line 3, column 5, line 30 to column 7, line 27).

The motivations for combining the respective teachings of Ecer and Diaz are as given in the rejection of claim 2 above, and incorporated herein.

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(D) As per claims 6-7, Ecer and Diaz teach a terminal as analyzed and discussed in claim 2 above

having means for inputting and setting the information, which is decoded by said decoding means, as various parameters, which are necessary for the operation of said terminal (Ecer; Abstract, Figure 4, column 2, line 27 to column 3, line 38, column 4, line 49 to column 5, line 3, column 5, line 30 to column 7, line 27); and

having a detachable storage medium and means for reading and writing the information, which is necessary for the health control of said person who brings the health control terminal with oneself, with respect to said storage means (Ecer; Abstract, Figure 4, Figure 5, column 2, line 27 to column 3, line 38, column 4, line 49 to column 5, line 3, column 5, line 30 to column 7, line 27), (Diaz; Abstract, column 5, line 51 to column 7, line 50, column 13, lines 19-46, column 24, lines 17-25, column 26, line 34 to column 27, line 19).

The motivations for combining the respective teachings of Ecer and Diaz are as given in the rejection of claim 2 above, and incorporated herein.

(E) As per claim 8, Ecer and Diaz teach a health control support system comprising:
a health control terminal to be brought with a person who requires a diet therapy and health slimming (Ecer; Abstract, Figure 4, Figure 5, column 2, line 27 to column 3, line 38, column 4, line 49 to column 5, line 3, column 5, line 30 to column 7, line 27), (Diaz; Abstract, column 5, line 51 to column 7, line 50, column 13, lines 19-46, column 24, lines 17-25, column 26, line 34 to column 27, line 19);

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a control device having a data base, in which the information associated with the health of each person who brings said health control terminals with oneself is stored (Ecer; Abstract, Figure 4, Figure 5, column 2, line 27 to column 3, line 38, column 4, line 49 to column 5, line 3, column 5, line 30 to column 7, line 27), (Diaz; Abstract, column 5, line 51 to column 7, line 50, column 13, lines 19-46, column 24, lines 17-25, column 26, line 34 to column 27, line 19); and

a network for enabling transmission and reception of the information between said health control terminal and the control device (Ecer; Abstract, Figure 4, Figure 5, column 2, line 27 to column 3, line 38, column 4, line 49 to column 5, line 3, column 5, line 30 to column 7, line 27); wherein said health control terminal comprises reading means for reading a record, which is patterned in a predetermined format as information showing an ingested energy of a food and drink in an information medium associated with the food and drink (Ecer; Abstract, Figure 4, Figure 5, column 2, line 27 to column 3, line 38, column 4, line 49 to column 5, line 3, column 5, line 30 to column 7, line 27), decoding means for decoding the ingested energy of said food and drink from said read information of the reading means (Ecer; Abstract, Figure 4, Figure 5, column 2, line 27 to column 3, line 38, column 4, line 49 to column 5, line 3, column 5, line 30 to column 7, line 27), transmitting means for wireless transmission of a signal (reads on a radio signal) for transferring the energy information, which is decoded by said decoding means, to said control device (Ecer; Abstract, Figure 4, Figure 5, column 2, line 27 to column 3, line 38, column 4, line 49 to column 5, line 3, column 5, line 30 to column 7, line 27), (Diaz; Abstract, column 5, line 51 to column 7, line 50, column 13, lines 19-46, column 24, lines 17-25, column 26, line 34 to column 27, line 19), receiving means for wireless receiving of a signal (reads on a radio signal) to be returned with respect to the wireless signal (reads on radio signal), which is

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transmitted by said transmitting means, as health control information of a person who brings the health control terminal with oneself associated with the ingested energy of said food and drink (Ecer; Abstract, Figure 4, Figure 5, column 2, line 27 to column 3, line 38, column 4, line 49 to column 5, line 3, column 5, line 30 to column 7, line 27), (Diaz; Abstract, column 5, line 51 to column 7, line 50, column 13, lines 19-46, column 24, lines 17-25, column 26, line 34 to column 27, line 19) and informing means for informing the health control information, which is received by said receiving means (Ecer; Abstract, Figure 4, Figure 5, column 2, line 27 to column 3, line 38, column 4, line 49 to column 5, line 3, column 5, line 30 to column 7, line 27); wherein said control device is constructed in such a manner that it returns the health control information, which is necessary for the diet therapy and the health slimming of said person who brings the health control terminal with oneself, associated with the ingestion of said food and drink and stores the ingested energy information of said person who brings the health control terminal with oneself on the basis of the energy information to be transmitted from said health control terminal and the information of the person who brings said health control terminal with oneself, which is stored in the data base (Ecer; Abstract, Figure 4, Figure 5, column 2, line 27 to column 3, line 38, column 4, line 49 to column 5, line 3, column 5, line 30 to column 7, line 27), (Diaz; Abstract, column 5, line 51 to column 7, line 50, column 13, lines 19-46, column 24, lines 17-25, column 26, line 34 to column 27, line 19).

The motivations for combining the respective teachings of Ecer and Diaz are as given in the rejection of claim 2 above, and incorporated herein.

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(F) As per claim 9, Ecer and Diaz teach a health control support system comprising:

a health control terminal to be brought with a person who requires a diet therapy and health slimming (Ecer; Abstract, Figure 4, Figure 5, column 2, line 27 to column 3, line 38, column 4, line 49 to column 5, line 3, column 5, line 30 to column 7, line 27), (Diaz; Abstract, column 5, line 51 to column 7, line 50, column 13, lines 19-46, column 24, lines 17-25, column 26, line 34 to column 27, line 19);

a control device having a data base, in which the information showing an ingested energy of a food and drink, which is provided by a supermarket, restaurant, or any other place that sells foods and drinks for human consumption (reads on catering establishment and delicatessen shop) is stored in advance (Ecer; Abstract, Figure 4, Figure 5, column 2, line 27 to column 3, line 38, column 3, line 59 to column 4, line 2, column 4, line 49 to column 5, line 3, column 5, line 30 to column 7, line 27), (Diaz; column 25, line 45 to column 26, line 29); and

a network for enabling transmission and reception of the information between said health control terminal and the control device (Ecer; Abstract, Figure 4, Figure 5, column 2, line 27 to column 3, line 38, column 4, line 49 to column 5, line 3, column 5, line 30 to column 7, line 27); wherein said health control terminal comprises reading means for reading a record, which is patterned in a predetermined format as searching information for searching the ingested energy information of said food and drink in an information medium associated with the food and drink (Ecer; Abstract, Figure 4, Figure 5, column 2, line 27 to column 3, line 38, column 4, line 49 to column 5, line 3, column 5, line 30 to column 7, line 27), decoding means for decoding said searching information from said read information of the reading means (Ecer; Abstract, Figure 4, Figure 5, column 2, line 27 to column 3, line 38, column 4, line 49 to column 5, line 3, column

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5, line 30 to column 7, line 27), transmitting means for wireless transmission of a signal (reads on a radio signal) for transferring the searching information which is decoded by said decoding means, to said control device (Ecer; Abstract, Figure 4, Figure 5, column 2, line 27 to column 3, line 38, column 4, line 49 to column 5, line 3, column 5, line 30 to column 7, line 27), (Diaz; Abstract, column 5, line 51 to column 7, line 50, column 13, lines 19-46, column 24, lines 17-25, column 26, line 34 to column 27, line 19), receiving means for wireless receiving of a signal (reads on a radio signal) to be returned with respect to the wireless signal (reads on radio signal), which is transmitted by said transmitting means, as health control information of a person who brings the health control terminal with oneself associated with the ingested energy of the food and drink, which is searched by said searching information and informing means for informing the health control information, which is received by said receiving means (Ecer; Abstract, Figure 4, Figure 5, column 2, line 27 to column 3, line 38, column 4, line 49 to column 5, line 3, column 5, line 30 to column 7, line 27), (Diaz; Abstract, column 5, line 51 to column 7, line 50, column 13, lines 19-46, column 24, lines 17-25, column 26, line 34 to column 27, line 19); wherein said control device is constructed in such a manner that it returns the ingested energy information of the food and drink, which is searched by the searching information to be transmitted from said health control terminal, in the energy information of the food and drink, which are stored in said data base, as the health control information, which is necessary for the diet therapy and the healthy slimming of said person who brings the health control terminal with oneself and stores the ingested energy information of said person who brings the health control terminal with oneself (Ecer; Abstract, Figure 4, Figure 5, column 2, line 27 to column 3, line 38, column 4, line 49 to column 5, line 3, column 5, line 30 to column 7, line 27), (Diaz; Abstract,

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column 5, line 51 to column 7, line 50, column 13, lines 19-46, column 24, lines 17-25, column 26, line 34 to column 27, line 19).

The motivations for combining the respective teachings of Ecer and Diaz are as given in the rejection of claim 2 above, and incorporated herein.

8. Claims 5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ecer, U.S. Patent Number 5, 412, 564 in view of Diaz, et al., U.S. Patent Number 5, 890, 128 as applied to claims 2 and 8 above, and further in view of Goldman, et al., U.S. Patent Number 5, 542, 420.

(A) As per claim 5, Ecer and Diaz teach a terminal as analyzed and discussed in claim 2 above.

Ecer and Diaz fail to explicitly disclose a terminal having a function of a cellular phone to enable a phone call by voice.

However, the above features are well-known in the art, as evidenced by Goldman.

In particular, Goldman teaches a terminal having a function of a cellular phone to enable a phone call by voice (Goldman; Figure 2, Figure 3, column 6, lines 9-51, column 7, lines 13-52, column 10, lines 50-59).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the health control terminal of Ecer and Diaz to include a function of a cellular phone to enable a phone call by voice, as taught by Goldman, with the motivations of enabling accumulation and storage of medical and health-related knowledge relating to

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individuals by integrating the technological capabilities of current communication and data processing techniques, including using various apparatus such as telephonic terminals to allow such knowledge to be accumulated over time, from multiple and varied sources, such as doctors, hospitals, medical laboratories, pharmacies, dieticians, as well as individual patients themselves (Goldman, column 6, lines 26-34).

(B) As per claim 10, Ecer, and Diaz teach a system as analyzed and discussed in claim 8 above.

Ecer and Diaz fail to explicitly disclose a system wherein said network is connected to a terminal device of specific institutions including a medical institution for instructing the health control to the person who brings said health control terminal with oneself so as to access the ingested energy information of each person who brings the health control terminal with oneself, which is stored in the data base of said control device.

However, the above features are well-known in the art, as evidenced by Goldman.

In particular, Goldman teaches a system

wherein said network is connected to a terminal device of specific institutions including a hospital (reads on medical institution) for instructing the health control to the person who brings said health control terminal with oneself so as to access the ingested energy information of each person who brings the health control terminal with oneself, which is stored in the data base of said control device (Goldman; Figure 2, column 3, line 26 to column 4, line 65, column 8, line 42 to column 9, line 25).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Ecer and Diaz to include wherein said network is connected to a terminal device of specific institutions including a hospital (reads on medical institution) for instructing the health control to the person who brings said health control terminal with oneself so as to access the ingested energy information of each person who brings the health control terminal with oneself, which is stored in the data base of said control device, as taught by Goldman, with the motivations of enabling accumulation and storage of medical and health-related knowledge relating to individuals by integrating the technological capabilities of current communication and data processing techniques, including using various apparatus such as telephonic terminals to allow such knowledge to be accumulated over time, from multiple and varied sources, such as doctors, hospitals, medical laboratories, pharmacies, dieticians, as well as individual patients themselves (Goldman, column 6, lines 26-34).

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The cited but not applied references Worthington et al., U.S. Patent Number 5, 822, 715, Brown, U.S. Patent Number 6, 168, 563, Brown, et al., U.S. Patent Number 6, 167, 362, and Iwabuchi et al, U.S. Patent Number 6, 327, 495 teach the environment of transmittal of food and health information.

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10. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington D.C. 20231

or faxed to: **(703) 305-7687.**

For informal or draft communications, please
label "PROPOSED" or "DRAFT" on the front page of
the communication and do NOT sign the
communication.

After Final communications should be labeled
"Box AF."

Hand-delivered responses should be brought to Crystal
Park 5, 2451 Crystal Drive, Arlington, VA, Seventh Floor
(Receptionist).

11. Any inquiry concerning this communication or earlier communications from the
examiner should be directed to Natalie A. Pass whose telephone number is (703) 305-3980. The
examiner can normally be reached on Monday through Thursday from 9:00 AM to 6:30 PM. The
examiner can also be reached on alternate Fridays.

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12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas, can be reached at (703) 305-9588. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (703) 308-1113.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NP

Natalie A. Pass

December 1, 2004



ALEXANDER KALINOWSKI
PRIMARY EXAMINER